

# United States Court of Appeals

**For the Seventh Circuit  
Chicago, Illinois 60604**

March 14, 2003

**Before**

Hon. JOHN L. COFFEY, *Circuit Judge*

Hon. TERENCE T. EVANS, *Circuit Judge*

Hon. ANN CLAIRE WILLIAMS, *Circuit Judge*

No. 02-1918

BEVERLY THOMPSON,  
*Plaintiff-Appellant,*

*v.*

DAVID E. WAGNER and  
KEITH GARDNER,  
*Defendants-Appellees.*

Appeal from the United States  
District Court for the  
Northern District of Illinois,  
Eastern Division.

No. 01 C 4266

John W. Darrah, *Judge.*

## **ORDER**

The appellant's petition for rehearing is DENIED, but the final paragraph of the court's February 13, 2003, opinion is amended to read:

So, what we have here is a situation where the officers seem to have decided on their course of action before they even entered the Kroger store. If Mrs. Thompson had a diamond, and refused to give it up, she would be arrested. Without probable cause or a valid charge of obstruction, their actions cannot be protected by qualified immunity. Accordingly, the grant of summary judgment to the defendants based on qualified immunity is REVERSED. In light of this determination, we also VACATE the district court's order denying Mrs. Thompson's motion for summary judgment. The case is REMANDED for further proceedings consistent with this opinion.